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Attorneys for Plaintiff,
and all others similarly situated

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARAM HOVSEPIAN, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

APPLE, INC.,

Defendant.

Case No. C08-05788 JF

**STIPULATION AND ~~PROPOSED~~
ORDER FOR EXTENSION OF
TIME FOR PLAINTIFF TO FILE
AMENDED COMPLAINT IN LIEU
OF OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS, AND FOR DEFENDANT
TO FILE RESPONSIVE PLEADING
TO PLAINTIFF'S AMENDED
COMPLAINT**

Date: April 24, 2009

Time: 9:00 a.m.

Dept. Crtm. 3, 5th Floor

Plaintiff Aram Hovsepian, individually and on behalf of all others similarly
situated ("Plaintiff"), and Defendant, Apple, Inc. ("Defendant"), through their
respective attorneys, hereby set forth as follows:

WHEREAS, Defendant filed a Motion to Dismiss Plaintiff's Complaint
pursuant to Federal Rule of Civil Procedure Rule 12(b), which is set for hearing

1 before this Court on April 24, 2009;

2 WHEREAS, Defendant's opposition is due on or before April 3, 2009;

3 WHEREAS, Federal Rule of Civil Procedure Rule 15(a) allows Plaintiff to
4 amend his complaint once as a matter of right before a responsive pleading is filed;

5 WHEREAS, Defendant's Rule 12(b) Motion is not considered to be a
6 responsive pleading under the F.R.C.P.;

7 WHEREAS, Plaintiff has met and conferred with Defendant and has
8 proposed that, in lieu of opposing Defendant's motion, Plaintiff will amend his
9 complaint, Defendant will withdraw its Motion to Dismiss and the hearing
10 scheduled for April 24, 2009 will be taken off calendar;

11 WHEREAS, Plaintiff has asked Defendant for an additional two weeks from
12 the date when Plaintiff's opposition to the motion was due, in order to draft and
13 file his amended complaint (the "Amended Complaint");

14 WHEREAS, in exchange therefor, Plaintiff has agreed to allow Defendant
15 45 days to file a responsive pleading to the Amended Complaint;

16 **BASED THEREON, THE PARTIES HEREBY STIPULATE AND**
17 **AGREE AS FOLLOWS:**

18 In lieu of opposing Defendant's Motion to Dismiss, Plaintiff agrees to file an
19 Amended Complaint on or before April 17, 2009.

20 Defendant agrees that, upon the Court's approval of this Stipulation,
21 Defendant's Motion to Dismiss shall be withdrawn.

22 The hearing scheduled for April 24, 2009 will be taken off calendar.

23 Defendant shall have 45 days from the date Plaintiff files his Amended
24

1 Complaint in which to file a responsive pleading.

2
3 **IT IS SO STIPULATED.**

4 Dated: April 3, 2009

Respectfully Submitted,

6 By: /s/
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3 *Attorneys for Plaintiff, ARAM HOVSEPIAN,*
4 *and all others similarly situated*

5 Dated: April 3, 2009

6 **PAUL, HASTINGS, JANOFSKY &**
7 **WALKER LLP**

8 /s/ Thomas A. Counts

9 Thomas A. Counts

10 Tammy Lee Kissman

11 David M. Walsh

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14 55 Second Street

15 24th Floor

16 San Francisco, CA 94105-3441

17 415-856-7000

18 Attorneys for Defendant, APPLE, INC

19 **ECF CERTIFICATION**

20 Pursuant to General Order No. 45, § X.B. the filing attorney attests that he has
21 obtained concurrence regarding the filing of this document from each of the
22 signatories to the document

23 Dated: April 3, 2009

24 /s/

Jonathan Shub, Esq.

PURSUANT TO STIPULATION IT IS SO ORDERED:

DATED: 4/9/09

21 

22 Honorable Jeremy Fogel,
23 United States District Court Judge